



AGENDA ITEM EXECUTIVE SUMMARY

Agenda Item Number: 4

Title:

Recommendation to Modify City Code with the Following Revisions to Title 5 “Business Licenses and Regulations”, Chapter 5.08 “Alcoholic Beverages”, Sections 5.08.090 “License - Classifications” and 5.08.110 “Number of Licenses” of the St. Charles Municipal Code

Presenter:

Police Chief Keegan

Meeting: City Council

Date: May 16, 2022

Proposed Cost: \$

Budgeted Amount: \$

Not Budgeted:

Executive Summary *(if not budgeted please explain):*

Please see the attached documents for the proposed changes to the City of St. Charles City Code.

Attachments *(please list):*

- Memo
- Changes highlighted in ordinance format
- Ordinance

Recommendation/Suggested Action *(briefly explain):*

Recommendation to modify City Code with the listed revisions to Title 5 “Business Licenses and Regulations”, Chapter 5.08 “Alcoholic Beverages”, Sections 5.08.090 “License Classifications” and 5.08.110 “Number of Licenses” of the St. Charles Municipal Code.



Memo

Date: 5/12/2022
To: Lora Vitek, Mayor
From: James Keegan, Chief of Police
Re: Video Gaming Ordinance

Pursuant to direction from the Winter 2022 Retreat concerning license flexibility and our one (1) year waiting period, you will see the attached ordinance revisions to our Liquor Code 5.08.090/License Classifications).

In addition, Section 5.08.110 (Number of Licenses) was also updated to reflect the automatic termination of licenses upon location closure and the number of licenses eligible mirror those issued.

Updated items include:

- New establishments (so long as the majority owner is also the current majority owner of an existing qualified establishment within the City) are exempt from the one (1) year waiting period.
- New establishments (so long as the business model for the new qualified establishment operates substantially similar to replicate the prior existing business, which had been operational for a minimum of six (6) months prior at the same location) are also exempt from the one (1) year waiting period.
- Video Gaming Cafes Prohibited. Video Gaming Cafés shall not be qualified to obtain a City liquor license or supplement Class V license and are prohibited from becoming a licensed establishment within the City.
- Should we have concerns with the business plans of an alleged café, the City's Liquor Control Commissioner may require a license holder to provide financial, tax and operational records to the City sufficient to demonstrate that they are not a Video Gaming Café. If in any quarter the video gaming revenues payable to the licensed establishment exceed 50% of the total gross revenues generated by the licensed establishment, the licensed establishment's license may be revoked, suspended or altered, including the potential reduction in the number of video gaming terminals at the licensed establishment. Any licensed establishment that exceeds the 50% requirement for the previous calendar year shall not be eligible for the reissuance of a license and any underlying liquor license shall be automatically revoked

Should you have any questions or concerns, please advise.

5.08.090 – License – Classifications

9. **V (Video Gaming)** which is a supplemental license only, ~~which~~ permits Video Gaming only in a Licensed Establishment, otherwise qualified to hold a Video Gaming License all as provided for in Title 5.09 of the City Code. Class V licenses shall only be issued to holders of class A-4, A-5, B-1, B-2, B-3, C-1, C-2, C-3, D-2, D-3, D-4, D-5, D-6, G-1, or G-2 liquor licenses, and licensed fraternal and veterans' establishments. Class V licenses shall have the same hours of operation as provided for the underlying liquor license as set forth in Title 5.08.130.

(1) A complete and accurate application to the City for the issuance of a Video Gaming License and the underlying eligible class of a liquor license shall be deemed an application for the issuance of a class V supplemental license.

(2) Class V licenses may only be issued to qualified Licensed Establishments in good standing which have continuously held a class A-4, A-5, B-1, B-2, B-3, C-1, C-2, C-3, D-2, D-3, D-4, D-5, D-6, G-1, or G-2 liquor license, and licensed fraternal and veterans' establishments, ~~and except as provided in Section 8(3) below~~, have operated their business on a regular basis for a period of at least one (1) year prior to the date of application for a Class V license.

~~Class V licenses shall have the same hours of operation as provided for the underlying liquor license as set forth in Title 5.08.130.~~

(3) A new establishment applying for a Class V license must meet the requirements of Section 8(2) above [one (1) year regular operation], unless (i) the majority owner of the applicant ~~an applicant for a Class V License to be a~~ for the -new qualified Licensed Establishment is also the current majority owner of an existing qualified Licensed Establishment at another location in the City, which has been operational for at least one (1) year immediately prior thereto, or (ii) the business model for the new qualified Licensed Establishment is proposed to and shall operate to substantially replicate the immediately prior existing business model, ~~and which otherwise would have qualified as a -Licensed Establishment, which and had been operational for a minimum of six (6) months prior thereto, at the location.~~

(4) Video Gaming Cafes Prohibited.

a. In all events, a Video Gaming Café shall not be qualified to obtain a City liquor license or supplement Class V license and is prohibited from becoming a Licensed Establishment within the City. Further, no liquor license allowing Video Gaming Cafes shall be created, maintained or

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authorized by this Chapter. A Video Gaming Café is an establishment for which the primary or a major focus of the establishment is Video Gaming and the service of alcohol; food is secondary to the operation of Video Gaming regardless of the percent of total gross revenue from Video Gaming operations. The following factors may be considered when determining if the establishment is a Video Gaming Café:

(1) The layout and design of the Licensed Establishment;

(2) The preparation and variety of food and beverages offered;

(3) The creation and operation of a commercial kitchen on the premises where gaming is situated;

(4) The number of video gaming machines relative to the customer seating capacity of the Licensed Establishment;

(5) The square footage of space devoted to Video Gaming relative to the amount of space devoted to other activities;

(6) The source of proposed or actual revenue derived from the Licensed Establishment and whether the probable revenue derived from the Licensed Establishment will be primary from Video Gaming;

(7) The number of employees at the Licensed Establishment and their proposed function;

(8) Any other facts deemed relevant by the City's Liquor Control Commissioner.

b. Upon the request of the City's Liquor Control Commissioner, any such license holder shall provide financial, tax and operational records to the City sufficient to demonstrate that they are not a Video Gaming Café. If in any quarter the Video Gaming revenues payable to the Licensed Establishment exceed 50% of the total gross revenues generated by the Licensed

Establishment, the Licensed Establishment's Class V License may be revoked, suspended or altered, including the potential reduction in the number of Video Gaming terminals at the Licensed Establishment. Any Licensed Establishment that exceeds the 50% requirement in this Section in total for the previous calendar year shall not be eligible for the reissuance of a Class V License and underlying liquor license and any existing Video Gaming License shall be automatically revoked. In the event it is determined by the Liquor Control Commissioner that a license holder is operating a Video Gaming Café, their liquor licenses permitting Video Gaming shall be revoked in accordance with the provisions of this Chapter or shall not be renewed; such a licensee may request a hearing before the City's Liquor Control Commissioner to determine if they are eligible for a non-Class V underlying liquor license. For new applicants with no history of operations, they must provide reasonable assurance to the satisfaction of the City's Liquor Control Commissioner that they will not operate in violation of this Section.

- (5) Violation and Revocation: If a licensee violates any provision of the Video Gaming Act or any provision related to Video Gaming contained in this Code, such violation shall be deemed a violation of the licensee's liquor licenses. In addition, the Commissioner may revoke the City's Video Gaming license for any violation of this Section or of any ordinance pertaining to the conduct of such business as provided for in this Code and may report any violations to the Illinois State Gaming Board or other appropriate regulatory agency.

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5.08.110 – Number of Licenses

Whenever a license previously issued under this Chapter is revoked, surrendered, not renewed or otherwise terminated for dormancy, such license shall automatically be removed from the number of eligible licenses available in that class. At no time shall the maximum number of licenses in each class exceed the actual number of licenses then issued, except as amended from time to time by actions of the City Council.

City of St. Charles, Illinois
Ordinance No. 2019-M- _____

**An Ordinance Amending Title 5 “Business Licenses and Regulations”,
Chapter 5.08 “Alcoholic Beverages”; Sections 5.08.090 “License
Classifications” and 5.08.110 “Number of Licenses” of the St. Charles
Municipal Code**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ST. CHARLES,
KANE AND DUPAGE COUNTIES, ILLINOIS, AS FOLLOWS:**

SECTION ONE: That Title 5 “Business Licenses and Regulations”, Chapter 5.08 “Alcoholic Beverages”, Section 5.08.090 “License Classifications” of the St. Charles Municipal Code, be and is hereby amended by replacing the current portion of this section of the code with the following:

9. **V (Video Gaming)** which is a supplemental license only, permits Video Gaming only in a Licensed Establishment, otherwise qualified to hold a Video Gaming License all as provided for in Title 5.09 of the City Code. Class V licenses shall only be issued to holders of class A-4, A-5, B-1, B-2, B-3, C-1, C-2, C-3, D-2, D-3, D-4, D-5, D-6, G-1, or G-2 liquor licenses, and licensed fraternal and veterans' establishments. Class V licenses shall have the same hours of operation as provided for the underlying liquor license as set forth in Title 5.08.130.(1) A complete and accurate application to the City for the issuance of a Video Gaming License and the underlying eligible class of a liquor license shall be deemed an application for the issuance of a class V supplemental license.
- (2) Class V licenses may only be issued to qualified Licensed Establishments in good standing which have continuously held a class A-4, A-5, B-1, B-2, B-3, C-1, C-2, C-3, D-2, D-3, D-4, D-5, D-6, G-1, or G-2 liquor license, and licensed fraternal and veterans' establishments, except as provided in Section 8(3) below, have operated their business on a regular basis for a period of at least one (1) year prior to the date of application for a Class V license.
- (3) A new establishment applying for a Class V license must meet the requirements of Section 8(2) above [one (1) year of regular operation], unless (i) the majority owner of the applicant for the new qualified Licensed Establishment is also the current majority owner of an existing qualified Licensed Establishment at another location in the City, which has been operational for at least one (1) year immediately prior thereto, or (ii) the business model for the new qualified Licensed Establishment is proposed to and shall operate to substantially replicate the immediately prior existing business model, which otherwise would have qualified as a Licensed Establishment, and had been operational for a minimum of six (6) months prior thereto, at the location.

(4) Video Gaming Cafes Prohibited.

a. In all events, a Video Gaming Café shall not be qualified to obtain a City liquor license or supplement Class V license and is prohibited from becoming a Licensed Establishment within the City. Further, no liquor license allowing Video Gaming Cafes shall be created, maintained or authorized by this Chapter. A Video Gaming Café is an establishment for which the primary or a major focus of the establishment is Video Gaming and the service of alcohol; food is secondary to the operation of Video Gaming regardless of the percent of total gross revenue from Video Gaming operations. The following factors may be considered when determining if the establishment is a Video Gaming Café:

- (1) The layout and design of the Licensed Establishment;
- (2) The preparation and variety of food and beverages offered;
- (3) The creation and operation of a commercial kitchen on the premises where gaming is situated;
- (4) The number of video gaming machines relative to the customer seating capacity of the Licensed Establishment;
- (5) The square footage of space devoted to Video Gaming relative to the amount of space devoted to other activities;
- (6) The source of proposed or actual revenue derived from the Licensed Establishment and whether the probable revenue derived from the Licensed Establishment will be primary from Video Gaming;
- (7) The number of employees at the Licensed Establishment and their proposed function;
- (8) Any other facts deemed relevant by the City's Liquor Control Commissioner.

b. Upon the request of the City's Liquor Control Commissioner, any such license holder shall provide financial, tax and operational records to the City sufficient to demonstrate that they are not a Video Gaming Café. If in any quarter the Video Gaming revenues payable to the Licensed Establishment exceed 50% of the total gross revenues generated by the Licensed Establishment, the Licensed Establishment's Class V License may be revoked, suspended or altered, including the potential reduction in the number of Video Gaming terminals at the Licensed Establishment. Any Licensed Establishment that exceeds the 50% requirement in this Section in total for the previous calendar year shall not be eligible for the reissuance

of a Class V License and underlying liquor license and any existing Video Gaming License shall be automatically revoked. In the event it is determined by the Liquor Control Commissioner that a license holder is operating a Video Gaming Café, their liquor licenses permitting Video Gaming shall be revoked in accordance with the provisions of this Chapter or shall not be renewed; such a licensee may request a hearing before the City's Liquor Control Commissioner to determine if they are eligible for a non-Class V underlying liquor license. For new applicants with no history of operations, they must provide reasonable assurance to the satisfaction of the City's Liquor Control Commissioner that they will not operate in violation of this Section.

- (5) **Violation and Revocation:** If a licensee violates any provision of the Video Gaming Act or any provision related to Video Gaming contained in this Code, such violation shall be deemed a violation of the licensee's liquor licenses. In addition, the Commissioner may revoke the City's Video Gaming license for any violation of this Section or of any ordinance pertaining to the conduct of such business as provided for in this Code and may report any violations to the Illinois State Gaming Board or other appropriate regulatory agency.

SECTION TWO: That Title 5 "Business Licenses and Regulations", Chapter 5.08 "Alcoholic Beverages", Section 5.08.110 "Number of Licenses" of the St. Charles Municipal Code, be and is hereby replaced with the following:

Whenever a license previously issued under this Chapter is revoked, surrendered, not renewed or otherwise terminated for dormancy, such license shall automatically be removed from the number of eligible licenses available in that class. At no time shall the maximum number of licenses in each class exceed the actual number of licenses then issued, except as amended from time to time by actions of the City Council.

SECTION THREE: That, after the adoption and approval hereof, this Ordinance shall (i) be printed or published in book or pamphlet form, published by the authority of the City Council of the City of St. Charles, or (ii) within thirty (30) days after the adoption and approval hereof, be published in a newspaper published in and with a general circulation within the City of St. Charles.

SECTION FOUR: This Ordinance shall be in full force and effect ten (10) days from and after its passage by a vote of the majority of the corporate authorities now holding office, approval and publication in the manner provided by law.

PRESENTED to the City Council of the City of St. Charles, Illinois, this ____ day of _____, 2022.

PASSED by the City Council of the City of St. Charles, Illinois this ____ day of _____, 2022.

APPROVED by the Mayor of the City of St. Charles, Illinois, this ____ day of _____, 2022.

Lora Vitek, Mayor

ATTEST:

City Clerk

COUNCIL VOTE:

Ayes : _____

Nays : _____

Absent : _____